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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,156	02/03/2004	Jeffrey T. Abel	12058-006001	1886
20985	7590	12/14/2004	EXAMINER	
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			RICCI, JOHN A	
			ART UNIT	PAPER NUMBER
			3714	
DATE MAILED: 12/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/772,156

Applicant(s)

ABEL, JEFFREY T.

Examiner

John Ricci

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-8 and 11-26 is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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Applicant's election of Species B in the reply filed on 9/27/04 is acknowledged. Because applicant did not distinctly and specifically point out any errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

However, Applicant's identification of the claims readable on the elected species is not agreed with; we believe that claims 6-8, & 11-26 read on the elected species.

Since claim 6 has been allowed, claims 9 & 10 have also been considered.

Claims 1-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

\* \* \* \* \*

The abstract of the disclosure is objected to because the Abstract should not include legal phraseology such as "said" and "means". Correction is required. See MPEP § 608.01(b).

\* \* \* \* \*

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Claims 9 & 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, there is no antecedent for the "bore".

\* \* \* \* \*

Claims 6-8 & 11-26 are allowed.

Claims 9 & 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

With regard to claim 6, the prior art does not disclose a toy including a ball having a connection portion; a mechanism for attachment to a user's limb, having a flexible portion and a rigid connection part; an elastic cord coupled between the ball and rigid connection part, and including a knot which connects different parts of the cord to one another; and a sleeve of shrinkable material which is shrunk to cover the cord and knot.

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With regard to claim 12, the prior art does not disclose a toy including a limb attachment part for attachment to a user's wrist, and having a first attachment portion; a ball inflated with air, and having an air intake opening; a plug forming a second attachment portion, received in the air intake opening; and an elastic cord connected between the first attachment portion and the second attachment portion.

With regard to claim 23, the prior art does not disclose a toy including an inflatable ball having a hole which can be plugged; and a plug assembly having a beveled cylinder which fits within the hole, a top part which plugs the hole, and a connection portion with no sharp edges.

\* \* \* \* \*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

\* \* \* \* \*

This letter was prepared by Examiner John Ricci, who can be reached at:

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Voice: 571-272-4429

Fax: Use 703-872-9306 for papers to be delivered directly to the mail room, like formal amendments and responses, change of address, power of attorney, petitions.

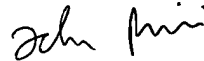
Use 703-783-0439 for papers to be delivered directly to the Examiner, like informal or proposed responses for discussion, or notes in preparation for an interview.

*Response by Fax is encouraged to reduce mail processing time. Please don't send duplicate papers by mail and Fax.*

My supervisor is Derris Banks, 571-272-4419.

PTO main switchboard: 800-786-9199.

Visit our Web site at [www.uspto.gov](http://www.uspto.gov).



**JOHN RICCI  
PRIMARY EXAMINER  
ART UNIT 3714**